

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

SERGEY SPITSYN,

Plaintiff,

v.

RICHARD MORGAN, *et al*,

Defendants.

Case No. C04-5134FDB-KLS

ORDER DENYING PLAINTIFF'S
MOTION SEEKING COURT
ORDER TO RETURN FUNDS

This matter has been referred to Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. § 636(b)(1), Local Magistrates Rules MJR 3 and 4, and Rule 72 of the Federal Rules of Civil Procedure. The case is before the Court on plaintiff's motion seeking a court order to return funds intended to reimburse costs on appeal. (Dkt. #71). After reviewing plaintiff's motion and the balance of the record, the Court finds and orders as follows:

In his motion, plaintiff stated that he was granted costs in the amount of \$439.20 on appeal to the Ninth Circuit Court of Appeals of this Court's order dismissing his original complaint. He further stated that the Department of Corrections ("DOC") deducted twenty percent of the costs he received and directed those monies toward certain other legal costs he had. As a result, plaintiff argued he has not been fully reimbursed for the costs he was awarded in violation of federal law, and requested this Court order DOC to return the monies it deducted from those costs.

In response to plaintiff's motion, defendants agreed that the monies should not have been deducted


1 from plaintiff's awarded costs, and stated that DOC currently is in the process of reversing the deduction.
2 They argued that because plaintiff would be reimbursed, his motion was moot. Defendants further stated
3 that they would provide the Court with proof of the reimbursement when it was complete.

4 On May 10, 2006, the Court issued an order to show cause stating that because it appeared DOC
5 was in the process of reimbursing plaintiff, the Court would not at that time rule on his motion. Rather, the
6 Court directed defendants to inform the Court by no later than June 10, 2006, the date by which they
7 anticipated plaintiff's reimbursement would be complete. The Court further stated that upon receipt of
8 proof of the completion of such reimbursement, the Court would deny plaintiff's motion as moot.

9 On June 8, 2006, defendants informed the Court that as of May 1, 2006, plaintiff was reimbursed
10 all deductions from his costs awarded on appeal. (Dkt. #89). Accordingly, plaintiff's motion seeking a
11 court order to return funds intended to reimburse costs on appeal (Dkt. #71) hereby is DENIED as being
12 moot.

13 The Clerk is directed to send a copy of this Order to plaintiff and counsel for defendants.

14 DATED this 13th day of June, 2006.

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18 Karen L. Strombom
19 United States Magistrate Judge
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